

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

<b>IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION</b>	<b>Master File No. 2:12-MD-02327 MDL No. 2327</b>
<b>THIS DOCUMENT RELATES TO ALL CASES</b>	<b>JOSEPH R. GOODWIN U.S. DISTRICT JUDGE</b>

**RESPONSES AND OBJECTIONS TO PLAINTIFFS’  
“NOTICE TO TAKE ORAL DEPOSITION OF DEFENDANTS THROUGH  
DESIGNATED WITNESSES” AND  
ACCOMPANYING REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendants Ethicon, Inc. (“Ethicon”) and Johnson & Johnson (“J&J”) (collectively, “Defendants”) hereby respond and object to Plaintiffs’ “Notice to Take Oral Deposition of Defendants Through Designated Witnesses” (the “Notice”). The Notice was filed and served on August 15, 2013. The Notice is attached hereto as Exhibit 1.<sup>1</sup>

The responses and objections contained herein are made without in any way waiving or intending to waive—but on the contrary reserving and intending to reserve—the right at any time to revise, supplement, correct, or add to these objections and responses. Defendants note that no documents have been withheld from production on the basis of the objections set forth in this Response unless expressly stated.

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<sup>1</sup> Defendants have attached only the Notice and Exhibits A and B. Plaintiffs also included a 64-page excerpt from the Instructions for Use as an exhibit. (Docket Entry 729-1).

**SPECIFIC RESPONSES AND OBJECTIONS  
TO DEPOSITION SUBJECT MATTER AND DOCUMENT REQUESTS**

Defendants do not object to the Deposition Subject Matters 1-4. Defendants reserve the right to revise, supplement, correct, or add to this response at any time.

**Document Request No. 1:** All documents relied upon by the deponent in preparing for this deposition.

**Responses and Objections to Document Request No. 1:** Defendants object that this request seeks information protected by the attorney work product doctrine. *See, e.g., Hickman v. Taylor*, 329 U.S. 495, 511 (1947); *In re Allen*, 106 F.3d 582, 608 (4th Cir. 1997) (observing that “choice and arrangement [of documents in witness’s personnel file by counsel for witness] constitutes opinion work product because [counsel’s] selection and compilation of these particular documents reveals her thought processes and theories regarding this litigation”); *Rhodes v. E.I du Pont de Nemours & Co.*, 558 F. Supp. 2d 660, 671 (S.D. W. Va. 2008) (Goodwin, C.J.) (“Courts acknowledge that the document selection process represents the mental impressions of the party’s counsel and is protected work product.” (internal quotation marks and alterations omitted)). Subject to and without waiving any objection, Defendants note that each and every document relied upon by the deponent in preparing for this deposition has already been produced to Plaintiff.

**Document Request No. 2:** All studies, data and/or other evidence that form the basis for the statements include [SIC] in the attached Instructions for Use for the TVT product and identified in Exhibit A above.

**Responses and Objections to Document Request No. 2:** To the extent that documents responsive to this request, if any, have not already been produced in Defendants' previous productions, Defendants will make a reasonable inquiry and produce any such responsive, non-privileged documents in advance of the deposition.

Respectfully submitted,

ETHICON, INC. AND  
JOHNSON & JOHNSON

/s/ David B. Thomas

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**CERTIFICATE OF SERVICE**

I, David B. Thomas, certify that on August 26, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ David B. Thomas

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